

**Town of Amherst**  
**Zoning Board of Appeals - Special Permit**

*DECISION*

**Applicant:** Celina Perrot and George Chasco

**Date application filed with the Town Clerk:** August 22, 2006

**Nature of request:** A Special Permit to operate an antique and book shop with jewelry, rare objects, collectibles and a café with seasonal outdoor dining.

**Address:** 321 Main Street (Map 14B, Parcel 28, R-G Zoning District)

**Legal notice:** Published on September 27 and October 4, 2006 in the Daily Hampshire Gazette and sent to abutters on September 25, 2006

**Board members:** Tom Simpson, Barbara Ford and Russ Frank

**Submissions:** The petitioner submitted with the application a Management Plan for the business, a hand drawn floor plan of the proposed space, a site plan with parking, and a Kamins management plan for the property which was approved by the Board on July 25, 2005.

For the continued hearing, the petitioner submitted a revised Management Plan, floor plans and sign plans drawn by Ford-Gillen Architects for the business space adjacent to the originally proposed space, dated 11/13/06.

**Site Visit:** October 10, 2006

The Board met with the petitioners at the site. They observed the following:

- The space proposed for the business, located in the eastern end of a small brick building at the edge of a residential district;
- The Emily Dickinson Museum located across Main Street, and a commercial district with a variety of businesses located directly to the east of the building;
- The two parts of the business space - a small first floor space, and a similar space behind and elevated by half a story, with a steep connecting staircase;
- A small parking area immediately in front of the building, and a large parking area at the western end of the building;
- A commercial district with a number of businesses located directly across Dickinson Street.

**Public Hearing:** October 12, 2006

Petitioners George Chasco and Celina Perrot represented themselves at the hearing. They said that they originally were from Argentina and moved to the United States three years ago. They have had successful businesses in the past, and wish to live in a small town in the U.S. and raise their children here. They gave the following information concerning their proposed business:

- Their main idea is for a shop of old books, antiques and other collectibles, with a café to

complement the business;

- They have many old books with good titles and very rare antiques;
- Ms. Perrot's family has been in the book business for over 100 years;
- The applicants have a warehouse in Florida with 10,000 -11,000 pieces of antique items;
- They will sell jewelry from Mexico and Italy;
- They have offices in Buenos Aires, Madrid, Miami, Salina, and now they would like Amherst as their final destination;
- Coffee will be offered to help the customers feel more comfortable;
- There will be a larger table with a few chairs around it, and arm chairs with a coffee table for people to browse through the books and have coffee;
- There will be books and collectibles on the shelves in the store, and there will be a list of books that the applicants have available for sale; they do not wish to be a library;
- There will be no big furniture for sale, but mainly collectibles that customers can carry out of the store;
- They will have a chalk board listing "special sales" of the week;
- There perhaps will be internet service so that customers can research books throughout the world;
- Many Asian people, for example, have difficulty finding books from their culture; through the applicants' software search program, they will be able to find books for international customers and others as well;
- The number of employees will be one to two people for the first year; if the business grows, they may expand to up 5 people;
- The sign would be the same size as what is installed there now (2' x 12') with a small light above to illuminate it.

Ms. Ford asked if the applicants will be purchasing books as well as selling them at the site. The answer was "no" in general, but occasionally it may happen. In general, they will look outside of Amherst for particular books, since they have resources all over the world, they said.

Mr. Simpson asked if sales people will come by to sell antiques to the applicants. They responded that if someone comes by with a rare object they may buy it.

The Board asked about the café aspect of the business. The applicants said the following:

- They would have complimentary coffee and have packaged cookies for sale;
- It would not be the equivalent of a European bar (coffee shop), that old books is the focus of the business;
- There would be no refrigerator;
- All the eating implements (cups, plates, etc) would be disposable;
- There would be no outdoor dining;
- There would be a case of pre-packaged cookies and sweets for sale which will be shipped from New York City;
- The coffee would come from Starbucks or Sysco; there will be many varieties of coffee and tea.

There was general discussion of the difference between a "café" and a coffee shop in the United States. The applicants said that in Argentina and Europe, a café serves coffee and perhaps sweets along with whatever main product is sold. The Board advised the applicants that

customers will be expecting food if the business is called a "café." Omitting the word "café" from the business name may be less confusing to the customers in Amherst. The applicants said that they would consider doing so.

Mr. Simpson asked if the applicants had talked to the Building Commissioner about the handicapped ramp proposed to access the back room of the space. He said that there is at least a three foot difference in elevation between the front and back rooms, and that may be too much of a difference in order to build a ramp, given the limited space. Mr. Chasco said that they would design the ramp with an architect and speak to the Building Commissioner.

Ms. Ford worried that a large 14-16 foot Sysco delivery truck may not be able to deliver to the site, given the small parking lot in front of the building. The delivery times may have to be compatible with the abutting residential homes as well. Mr. Chasco responded that the trucks will probably be small ones, because the deliveries will just 2 or 3 plastic containers of cookies/sweets. If needs be, the deliveries can be made to their residence, he said.

Mr. Frank asked about the business card that was submitted to the Board. Mr. Chasco said that the company listed is part of the family's businesses. It is an import/export business located in Florida that distributes goods to other parts of the country.

Mr. Simpson said that more information is needed before the Board can vote on the proposal. That is, a revised management plan, architectural plans of the business interior, and sign plans/graphics are needed. But he would like the Board to vote on the concept of the business now, so that the applicants will know whether to go forward or not.

Mr. Simpson made a motion to approve the concept of the application. Mr. Frank seconded the motion, and the vote was unanimous that the concept of the application was approved, given that architectural plans, sign graphics/plans and management plans will be submitted for review and approval.

Ms. Ford made a motion to continue the hearing until November 16, 2006 at 7:30 pm. Mr. Frank seconded the motion, and the vote was unanimous to continue the hearing to the above-mentioned date and time certain.

#### **Continued Public Hearing** November 16, 2006

Ms. Perrot and Mr. Chasco spoke to the petition again, and gave the following information:

- They changed the location of the business to the space next door within the same building;
- The submitted floor plans reflect the change in location;
- The new space is easier to move into; there are no changes needed except to make the bathroom handicapped accessible;
- There will be no changes in what will be offered for sale – books, furniture, antiques;
- Internet service will be available to search for books;
- A chalk board will be on the wall listing the latest specials;
- There will be one or two employees, and if business goes well, 3 by the end of the year;
- If three employees, one will be devoted to books alone;
- The same food as listed in the management plan will be offered. All food (cookies, etc., as listed in the Management Plan) will be pre-packaged. Drinks will be bottled, except for the coffee and tea;

- They want to offer food to balance that with the furniture and books for sale, but the main attraction will be the antiques, books and furniture;
- The dishes and cups for food will all be disposable;
- There will be trash receptacles near the coffee/snack area;
- The antiques will be small – chandeliers, candlesticks, collectibles, small tables, etc.
- The furniture will consist mainly of chairs – upholstered and wooden; no larger items will be offered because chairs sell much more easily;
- The placement of the antiques and furniture will be near the bookshelves in the main room;
- All sales will occur at the coffee area in the eastern section of the space;
- There will be no live entertainment, but there will be classical background music;
- There will be no outdoor dining at this time.

The Board discussed the picture of the proposed sign that was submitted. The colors will be red, white and blue, the sign material will be aluminum and the size would be 3' by 16'. The petitioners said that the sign will be less than 10% of the total front of their space. However, the Board stated that there should be more consistency among the signs of the building, particularly since the building is in an historic district and directly across from the Emily Dickinson Museum. The Board asked the petitioners to re-design the sign so that it will be 2 feet high to match the other signs of the building. The length could up to 26 feet.

The Board also noted that the business space may need a second means of egress. They asked that the petitioners meet with the Building Commissioner and bring back to the Board a revised floor plan showing the second doorway if needed.

One member of the public spoke at the hearing, Ken Bernstein of 5 Hedgerow Lane, Amherst. He said that he has occupied the space under consideration for 5 years and received a Special Permit to operate a karate studio there. He said that the building has been derelict, but he worked on his space, putting in a wood floor and gave a good program for the Town and children.

Mr. Bernstein said the Pat Kamins, who manages the building, offered him a lease, but he did not sign it. He had always been an "at will" tenant, and the rent had never been raised. He wishes that he could stay at the space, but the applicants have a business and are entitled to the location. Mr. Bernstein said that Amherst has too many book stores and not enough places for the kids of this Town.

Mr. Frank made a motion to close the evidentiary portion of the hearing. Mr. Simpson seconded the motion, and the vote was unanimous to close the hearing.

#### **Public Meeting:**

Section 9.22 of the Zoning Bylaw states that the non-conforming use of a building may be changed to a use not substantially different in character or in its effect on the neighborhood. Since the property is located in a residential neighborhood, the uses located in the building are classified as non-conforming.

The Board agreed that the proposed space is appropriate for the applicants' business, and will have a positive, not a negative effect on the vicinity. The Board then discussed the Specific Findings (Section 10.38) needed for authorizing a Special Permit and the conditions that will be associated with granting the Special Permit.

**Findings:**

The Board finds under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 and 10.381 – The proposal is suitably located in the neighborhood and is compatible with existing uses because there will be an antique store and a grocery store on either side of the proposed business, and a commercial district with a variety of businesses is located on the south side of Main Street nearby.

10.382 and 10.385 – The proposal would not constitute a nuisance and reasonably protects the adjoining premises against detrimental or offensive uses on the site because the hours of operation are limited and no changes are proposed to the building except possibly for the addition of another means of egress. The property is screened from the residential abutters to the west and south.

10.383 and 10.387 – The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians and the proposal provides convenient and safe vehicular and pedestrian movement within the site and in relation to adjacent streets because there is ample parking and turning space on site, and there is a sidewalk in front of the property.

10.384 – Adequate and appropriate facilities would be provided for the proper operation of the proposed use because the proposed business is modest and the conditions of the permit stipulate that the business be implemented according to the floor and management plans.

10.386 – The proposal ensures that it is in conformance with the Parking and Sign regulations of the town because 20 parking places are provided on site (18 are required, Section 7.5 of the Zoning Bylaw) and the proposed sign is compatible in size with the other approved signs on the building.

10.389 – The proposal provides adequate methods of disposal and/or storage for sewage, refuse, recyclables and other wastes because the building is connected to Town Water/sewer lines, the building management plan provides for regular refuse/recycling pickup, and the petitioner's management plan deals with refuse/recycling as well.

10.391, 10.392 & 10.395 – The proposal protects unique or important natural, historic features of the area, since the proposed business will have no exterior changes other than a tasteful sign, and will not impinge on the Dickinson National Register District, of which this property is a part.

10.393 – The proposal provides protection of adjacent properties by minimizing the intrusion of lighting because the exterior lighting is minimal.

10.398 – The proposal is in harmony with the general purpose and intent of the Zoning Bylaw because a book/antique store will be a positive addition to the downtown business area and the surrounding residences. The proposal thus will promote the general welfare of the residents of this Town.

**Public Meeting – Zoning Board Decision**

Ms. Ford made a motion to APPROVE the proposed business, subject to conditions. Mr. Frank seconded the motion.

For all of the reasons stated above, the Board VOTED unanimously to grant a Special Permit under Section 9.22 of the Zoning Bylaw to operate an antique and book shop with jewelry, rare objects, collectibles and small furniture, and to offer a coffee service with pre-packaged snacks on the premises at 321 Main Street, (Map 14B/Parcel 28, R-G Zoning District), as requested in the application filed by Celina Perrot and George Chasco, with conditions.

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THOMAS SIMPSON

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BARBARA FORD

\_\_\_\_\_  
RUSSELL FRANK

FILED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2006 at \_\_\_\_\_,  
in the office of the Amherst Town Clerk \_\_\_\_\_.

TWENTY-DAY APPEAL period expires, \_\_\_\_\_ 2006.  
NOTICE OF DECISION mailed this \_\_\_\_\_ day of \_\_\_\_\_, 2006  
to the attached list of addresses by \_\_\_\_\_, for the Board.

NOTICE OF PERMIT or Variance filed this \_\_\_\_\_ day of \_\_\_\_\_, 2006,  
in the Hampshire County Registry of Deeds.

**Town of Amherst**  
**Zoning Board of Appeals**

*SPECIAL PERMIT*

The Amherst Zoning Board of Appeals hereby grants a Special Permit under Section 9.22 of the Zoning Bylaw to operate an antique and book shop with jewelry, rare objects, collectibles and small furniture, and to offer a coffee service with pre-packaged snacks on the premises at 321 Main Street, (Map 14B/Parcel 28, R-G Zoning District), as requested in the application filed by Celina Perrot and George Chasco, subject to the following conditions:

1. The hours of operation for the business shall be 9 AM to 6 PM, daily.
2. The refuse/recycling shall be managed as described in the Management Plan approved for the building at a public meeting of the Board on July 25, 2005 and on file with this permit.
3. Plans for the sign above the entrance to the store shall be submitted to the Board for review and approval at a public meeting. The sign height shall be 2 feet and the length shall be no longer than 26 feet.
4. Any future changes to the signage shall be submitted to the Board for review and approval.
5. The business shall be managed as described in the applicants' Management Plan which shall be revised and submitted for review and approved at public meeting of the Board.
6. Deliveries shall be made during normal business hours Monday through Friday.
7. An area in the northwest corner of the parking lot, approximately where space #12 is shown on the approved site plan but large enough to accommodate tractor trailer delivery trucks, shall be designated with pavement marking and appropriate signs, for use by all the shops in the building.
8. The final floor plans for the business shall be submitted to the Board for review and approval at a public meeting prior to issuance of a Certificate of Occupancy.
9. The number of employees shall be limited to three at any one time.
10. No food shall be prepared on the premises except coffee and tea.
11. Trash receptacles shall be located both inside and outside for the disposable eating utensils.
12. The outside trash receptacle shall be brought inside each evening when the business closes.
13. The exterior of the lot shall be policed daily for disposal of litter.
14. Background music within the store shall not be heard outside the business establishment.
15. Any additional exterior lighting shall be downcast.

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THOMAS SIMPSON, Chair  
Amherst Zoning Board of Appeals

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DATE